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EXAMINER

TAOUSAKIS, ALEXANDER P

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,382	<b>Applicant(s)</b> JUST ET AL.	
	<b>Examiner</b> ALEXANDER P. TAOUSAKIS	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-7, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 2-3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 2 objected to because of the following informalities: In line 4, "portions of the each of the plurality" should be changed to ---portions on each of the plurality---.

Claim 22 objected to because of the following informalities: "Claim 22" should be changed to ---Claim 21---. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "transversely extending bows" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitation "all of the rails" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "all of the links" in line 4. There is insufficient antecedent basis for this limitation in the claim.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the central portions of the plurality of bows must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 20 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (4,720,133) in view of Higgins (6,513,407)**

20. Alexander et al teach a method of making a top stack linkage for a convertible top for a vehicle, comprising: forming a bow (92) and front rail portion (90) as an integral part (90) (*see Figure 2b*), assembling a front rail portion/bow portion (90), side rails (12) and links together with a plurality of bows (20, 22, 24, 26, 28) to form the top stack linkage for the convertible top (*see Figure 1*).

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Alexander et al fails to teach molding magnesium in a thixotropic molding process to form a one bow including a front rail portion, a plurality of side rails, and a plurality of links.

Higgins teaches a Thixotropic molding process to mold a structural component for a motor vehicle (*see column 1 lines 7-11 and column 5 lines 1-7*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to produce front rail portion, side rails, links and bows of Alexander et al using a Thixotropic molding process, as taught by Higgins, because it produces components that are lighter, less expensive and have better surface finish.

4.

Alexander et al/Higgins teach the method of claim 1 wherein the molding step further includes molding a plurality of fastener bosses (116), reinforcing ribs (32, 96, 106, 84) and pivot pin retainers (46, 62, 66) (*see column 4 lines 50-51, where it discloses that the pivot pin is retained in bracket 46, see Figure 2b, which shows pivot pin at link 68 retained in links 62,66, see Figure 2b where it shows the reinforcing ribs, see column 6 lines 20-23, where it discloses the fastener bosses 116, and note that only one side is shown in Figure 2b*), but fails to teach the bosses, ribs and pivot pin retainers on the front rail portion, the plurality of side rails, and the plurality of links.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the front rail portion, side rails and links with bosses, ribs, and pin retainers, as bosses and ribs provide added strength to the connection of the links and

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other components of the top stack linkage assembly, and pivot pin retainers will ensure that the pivot pins stay in their respective positions.

5.

Alexander et al/Higgins teach the method of claim 1 wherein the molding step further comprises molding a rear rail (90) and at least one pressure link (172) (*see Figures 2a, 2b and column 7 lines 39-42, where it discloses that the pressure link 172 is connected directly to a pressurized cylinder*).

6. Alexander et al/Higgins teach the method of claim 1 wherein the side rails include a center rail (31) and a rear rail (90) (*see Figures 1 and 2b*).

7. Alexander et al/Higgins teach the method of claim 1 wherein the links include a scissor link, control link (72), pivot link, and a pressure link (172) (*see Figure 2b*).

### ***Allowable Subject Matter***

Claim 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fails to teach the claimed method of making a top stack linkage for a convertible top comprising: injection molding magnesium in a thixotropic molding process to form an integral bow and front rail portion, a plurality of rails and a plurality of links, and a plurality of bows, a plurality of end portions for the plurality of bows, and providing a plurality of central portions on each of the plurality of bows and assembling two of the end portions to teach of the central portions to form the plurality of bows.

### ***Response to Arguments***

Applicant's arguments with respect to claim 20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 04/20/2009, with respect to claim 4-7 have been fully considered but they are not persuasive. Applicant argues that Alexander et al fail to teach injecting through a Thixotropic process a plurality of fastener bosses, ribs, pins, side rails links, a rear rail, a pressure link, a center rail, a scissor link, a control link and a pivot link. This argument is not persuasive because Higgins is used to teach the Thixotropic molding process which is being applied to all the components of the top stack linkage of Alexander et al, and therefore Alexander et al do not need to teach the individual injection steps.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER P. TAOUSAKIS whose telephone number is (571)272-3497. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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